

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11 Case No.
	:	
LEHMAN BROTHERS HOLDINGS INC., et al.,	:	08-13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**AFFIRMATION OF CLAIMANT ROSS SHAPIRO IN OPPOSITION TO
DEBTORS' 313th OMNIBUS OBJECTION (TO RECLASSIFY PROOFS OF
CLAIM AS EQUITY INTERESTS) DATED JUNE 4, 2012**

Ross Shapiro affirms under penalties of perjury as follows:

1. I was employed by Lehman Brothers from July 2000 through September 2008.

Lehman Brothers terminated my employment upon bankruptcy when I was transferred to Barclays.

2. For each year between 2003 and 2008 Lehman Brothers issued to me an "RSU Agreement", which documented that a portion of my compensation was withheld for payment in the future. Pursuant to the RSU Agreements, I recognized that I was contractually obligated to avoid engaging in any "Detrimental Activity" and that I had other ongoing contract obligations under these Agreements. *See, e.g.*, Debtors' Omnibus Reply to Responses to Debtors' 118th, 130th, 131st, 133d, 134th, 135th, 176th & 207th Omnibus Objections, Dec. 15, 2011, at pp. 65-68 (RSU Agreement for 2004).

3. Pursuant to the RSU Agreements, I recognized that I was contractually obligated to avoid engaging in any "Detrimental Activity" and that I had other ongoing contract

obligations under these Agreements. *See, e.g.,* Debtors' Dec. 15 Omnibus Reply at pp. 65-68 (RSU Agreement for 2004).

4. After my entry into the RSU Agreements, including after the termination of my employment, I continued to perform all of those contractual obligations.

5. Attached hereto as Exhibit 1 is the original Proof of Claim that I filed in connection with my contract rights under the RSU Agreements. This initial Claim was assigned Claim No. 555291350.

6. I was provided with this Proof of Claim form by Debtors. In the form provided, Debtors had largely completed the form, including inserting the caption, a bar code, supplying my name and address, and describing the Scheduled Claim as a "*Schedule G*", for an "Executory Contract or Unexpired Lease." Debtors also provided the "Description" as a claim under a "Restricted Stock Unit Agreement."

7. On the attached Exhibit 1, all of the typed information was contained in the form when Debtors provided it to me. I added only my phone number, email address, the amount of the claim, \$85,752.31 (plus deferred compensation), and my signature and date. All of these documents are attached with Exhibit 1, together with Debtors' acknowledgement of receipt of the proof of claim.

8. The practice followed each year by Lehman Brothers was to provide a form stating the bonus to which I was entitled for the year, and describing the portion of the bonus that was to be reserved by Lehman Brothers pursuant to the RSU Agreement for that year. The amount withheld from my bonuses during the years 2003-2007 pursuant to the RSU Agreements, as shown on compensation summary sheets Lehman provided (Exhibit 2), was \$2,712,000.

9. I never paid tax on the portion of any bonus reserved under the RSU Agreements. For prior years, not at issue here, after my interests vested and I was permitted to draw down on

my RSU account, Lehman Brothers would retain a portion in cash to pay the federal withholding tax, and then would use the balance to provide me with Lehman Brothers shares. The entire amount of the bonus was treated as ordinary income to me and was taxed at ordinary income rates. My understanding is that Lehman Brothers was entitled to a business expense deduction for the amount of this portion of the bonus, but only at the time that it was actually paid.

10. The economic substance of the RSU Agreements to me was that a portion of the bonus that had been declared for me was held back, and would be paid to me only after passage of five years, during which I was subject to ongoing contractual obligations. At no time did Lehman suggest that I had ever failed to perform any of these contractual obligations, the breach of which could result in rescission of my bonus. However, under the terms of the RSU Agreements, Lehman Brothers was not required to pay me anything from this reserved bonus, and in fact Lehman Brothers did not pay me anything, until five years after we entered into that RSU Agreement.

11. Even after vesting I was not permitted to draw down on the shares until five years after the date of the RSU Agreement. During this entire time my right to draw down on the shares was contingent on my continued performance of contract obligations.

Affirmed under penalties of perjury on this 3rd day of July, 2012




Ross Shapiro

EXHIBIT 1

United States Bankruptcy Court/Southern District of New York Lehman Brothers Holdings Claims Processing Center c/o Epiq Bankruptcy Solutions, LLC FDR Station, P.O. Box 5076 New York, NY 10150-5076		PROOF OF CLAIM	
In Re: Lehman Brothers Holdings Inc., et al. Debtors.	Chapter 11 Case No. 08-13555 (JMP) (Jointly Administered)	UNIQUE IDENTIFICATION NUMBER: 555291350	
Name of Debtor Against Which Claim is Held LEHMAN BROTHERS HOLDINGS, INC.	Case No. of Debtor 08-13555 (JMP)		
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503. Additionally, this form should not be used to make a claim for Lehman Programs Securities (See definition on reverse side.)		THIS SPACE IS FOR COURT USE ONLY	
Name and address of Creditor: (and name and address where notices should be sent if different from Creditor) LBH (MERGE2.DBF,SCHED_NO) SCHEDULE #: 555291350***** ROSS B., SHAPIRO 205 WEST END AVENUE APT. 8N NEW YORK, NY 10023		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____	NOTICE OF SCHEDULED CLAIM: Your Claim is scheduled by the indicated Debtor as: SCHEDULE G - EXECUTORY CONTRACT OR UNEXPIRED LEASE DESCRIPTION: RESTRICTED STOCK UNIT AGREEMENT
Telephone number: 917-626-6329 Email Address: rossshapiro@gmail.com		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.	
Name and address where payment should be sent (if different from above) Telephone number: _____ Email Address: _____			
1. Amount of Claim as of Date Case Filed: \$ 85,752.31 (does NOT include deferred comp total) If all or part of your claim is secured, complete Item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete Item 5. (Claim = 85,752.31 + Deferred Comp) If all or part of your claim qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9), complete Item 6.		5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input checked="" type="checkbox"/> Wages, salaries or commissions (up to \$10,950), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Up to \$2,425 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).	
<input type="checkbox"/> Check this box if all or part of your claim is based on a Derivative Contract. <input type="checkbox"/> Check this box if all or part of your claim is based on a Guarantee. *IF YOUR CLAIM IS BASED ON AMOUNTS OWED PURSUANT TO EITHER A DERIVATIVE CONTRACT OR A GUARANTEE OF A DEBTOR, YOU MUST ALSO LOG ON TO http://www.lehman-claims.com AND FOLLOW THE DIRECTIONS TO COMPLETE THE APPLICABLE QUESTIONNAIRE AND UPLOAD SUPPORTING DOCUMENTATION OR YOUR CLAIM WILL BE DISALLOWED. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of interest or additional charges. Attach itemized statement of interest or charges to this form or on http://www.lehman-claims.com if claim is based on a Derivative Contract or Guarantee.			
2. Basis for Claim: Deferred Compensation; investments in employee funds, unused vacation (See instruction #2 on reverse side.)			
3. Last four digits of any number by which creditor identifies debtor: 9860 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)			
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		Amount entitled to priority: \$ 76,923.1	
6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9): \$ _____ (See instruction #6 on reverse side.)			
7. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 8. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages and security agreements. Attach redacted copies of documents providing evidence of perfection of a security interest. (See definition of "redacted" on reverse side.) If the documents are voluminous, attach a summary. DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		FOR COURT USE ONLY	
Date: 9-20-09	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Ross B. Shapiro		
Penalty for presenting fraudulent claim. Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 1342 and 1351.			

Ross B. Shapiro

 **Deferred compensation related to year-end compensation (bonus) 2003-2007...**
if needed, further documentation is available upon request

2008 unused vacation days (accrued)	\$	7,692.31
10 days accrued in last 180 days		
2000 Lehman Brothers Partnership Account	\$	26,370.00
2004 Diversified Private Equity Account (DPEF)	\$	51,690.00
TOTAL	\$	85,752.31 *

*** total does not include the value of deferred compensation**

EXHIBIT 2

2007 Total Compensation Statement

Employee : Shapiro,Ross B.
 Division : Fixed Income Division
 Hire Date : 8/7/00

Employee ID : 10202879
 Stock Program : SVP

COMPENSATION HISTORY

<u>Compensation Type</u>	<u>Current - 2007</u>
Paid Salary	\$200,000
Bonus	\$3,800,000
TOTAL COMPENSATION	\$4,000,000

Total Compensation Value \$4,560,000

"Total Compensation" includes the notional grant-date value of the principal portion of your equity award, as described below. "Total Compensation Value" includes the notional grant-date value of the principal and discount portions of your equity award. To receive the full benefit of the equity award, including the discount portion, you must remain employed at the Firm for five years from the grant date and comply with the terms of the Equity Award Program.

EQUITY SUMMARY in USD

	<u>Equity Component</u>	<u>Market Price</u>	<u>Discount Price</u>	<u>Shares</u>
RSUs	\$1,680,000	\$63.47	\$47.60	35,294.12

Your equity award was calculated based on total compensation of \$4,000,000, where "total compensation" includes salary, bonus, and other forms of eligible compensation. All terms and conditions of equity awards, including those relating to vesting and forfeiture, are subject to the controlling plan documents, including the FY 2007 equity award agreements (expected to be finalized in early 2008), the 2005 Stock Incentive Plan and related Prospectus.

PAYMENT SCHEDULE

Bonus	\$3,800,000	
Less Total RSUs	(\$1,680,000)	
Total Cash Payment (Before Taxes)	\$2,120,000	Payable on or about January 31, 2008

ANNUAL SALARY

Effective Fiscal Year 2008, your annual base salary will be as follows:

Current Annual Salary	\$200,000
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Your rights to the bonus payment and equity awards are subject to the terms and conditions of the Firm's bonus policy and the controlling equity award documents, as applicable.

If you have any additional questions regarding your compensation or personal data, please contact your divisional HR representative. If you have any questions regarding your equity award, please contact the Compensation Department at (212) 526-8346.

Sherr,D / Sweely,G

13-Dec-07

Lehman Brothers
2006 Total Compensation Statement
CONFIDENTIAL

Employee : **Shapiro, Ross B.**
 Division : Fixed Income Division
 Hire Date : 8/7/00

Employee ID : 10202879
 Stock Program : SVP

COMPENSATION

<u>Compensation Type</u>	<u>Current - 2006</u>
Paid Salary	\$200,000
Bonus	\$1,500,000
TOTAL COMPENSATION	\$1,700,000

EQUITY SUMMARY in USD

	<u>Equity Component</u>	<u>Market Price</u>	<u>Discount Price</u>	<u>Shares</u>
RSUs	\$558,000.03	\$77.03	\$57.77	9,658.99

Your equity award was calculated based on total compensation of \$1,700,000, where "total compensation" includes salary, bonus, and other forms of eligible compensation.

All terms and conditions of equity awards, including those relating to vesting and forfeiture, are subject to controlling plan documents, including the FY 2006 equity award agreements (expected to be finalized in early 2007), the Employee Incentive Plan and related Prospectus.

PAYMENT SCHEDULE

Bonus	\$1,500,000	
Less RSUs	(\$558,000)	
Total Cash Payment (Before Taxes)	\$942,000	Payable on or about January 31, 2007

ANNUAL SALARY

Effective Fiscal Year 2007, your annual base salary will be as follows:

Current Annual Salary	\$200,000
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The above bonus (including equity awards and any special awards) is contingent on your remaining actively employed through the scheduled bonus award date (on or about January 31, 2007). If you are no longer actively employed on such date, or if you have received notice of employment termination, or are serving out any period of required notice of resignation through such date, you will not be eligible for a bonus or any portion of it.

If you have any additional questions regarding your compensation or personal data, please contact your divisional HR representative. If you have any questions regarding your equity award, please contact the Compensation Department at (212)526-8346.

Sweely,G
 11-Dec-06

Lehman Brothers
2005 Total Compensation Statement

CONFIDENTIAL

Employee : Shapiro, Ross B.
Division : Fixed Income Division
Hire Date : August 7, 2000

Stock Program : VP
Employee Id : 10202879

COMPENSATION

<u>Compensation Type</u>	<u>Current - 2005</u>
Paid Salary	\$200,000
Bonus	\$1,200,000
TOTAL COMPENSATION	\$1,400,000

EQUITY SUMMARY in USD

	<u>Equity Component</u>	<u>Market Price</u>	<u>Discount Price</u>	<u>Shares</u>
RSUs	\$280,500.02	\$126.00	\$94.50	2,968.25

Your equity award was calculated based on total compensation of \$1,400,000, where "total compensation" includes salary, bonus, and other forms of eligible compensation.

All terms and conditions of equity awards, including those relating to vesting and forfeiture, are subject to controlling plan documents, including the FY 2005 equity award agreements (expected to be finalized in early 2006), the Employee Incentive Plan and related Prospectus.

PAYMENT SCHEDULE

Bonus	\$1,200,000	
Less RSUs	(\$280,500)	
Total Cash Payment (Before Taxes)	\$919,500	Payable on or about January 31, 2006

ANNUAL SALARY

Effective Fiscal Year 2006, your annual base salary will be as follows:

Current Annual Salary	\$200,000
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Note: All bonus awards and equity awards are contingent on your being employed on the scheduled bonus award date (on or about January 31, 2006) and not having given or received notice of employment termination before that date.

If you are not employed on January 31, 2006, or you have received notice of employment termination before that date, you will not be eligible to receive a bonus award (including any special awards) or any equity award for fiscal year 2005.

If you have any additional questions regarding your compensation or personal data, please contact your divisional HR representative. If you have any questions regarding your equity award, please contact the Compensation Department at (212)526-8346.

Sweely,G
12-Dec-05

Lehman Brothers
2004 Total Compensation Statement

CONFIDENTIAL

Employee : Shapiro, Ross B.
 Division : Fixed Income Division
 Hire Date : August 7, 2000

Stock Program : VP
 Employee Id : 10202879

COMPENSATION

<u>Compensation Type</u>	<u>Current - 2004</u>
Paid Salary	\$125,000
Bonus	\$875,000
TOTAL COMPENSATION	\$1,000,000

EQUITY SUMMARY in USD

	<u>Equity Component</u>	<u>Market Price</u>	<u>Discount Price</u>	<u>Shares</u>
RSUs	\$160,500.00	\$85.80	\$64.35	2,494.17

Your equity award was calculated based on total compensation of \$1,000,000, where "total compensation" includes salary, bonus, and other forms of eligible compensation

All terms and conditions of equity awards, including those relating to vesting and forfeiture, are subject to controlling plan documents, including the FY 2004 equity award agreements (expected to be finalized in early 2005), the Employee Incentive Plan and related Prospectus.

PAYMENT SCHEDULE

Bonus	\$875,000	Bonus Guarantee:	\$675,000
Less RSUs	(\$160,500)		
Total Cash Payment (Before Taxes)	\$714,500	Payable on or about January 31, 2005	

ANNUAL SALARY

Effective Fiscal Year 2005, your annual base salary will be as follows:

Current Annual Salary	\$175,000	
New Annual Salary	\$200,000	Salary Adjustments will be included in the January 28, 2005 paycheck,
Salary Change	\$25,000	retroactive to November 21, 2004.

Note: All bonus awards and equity awards are contingent on your being employed on the scheduled bonus award date (on or about January 31, 2005) and not having given or received notice of employment termination before that date. If you are not employed on January 31, 2005 or you have given or received notice of employment termination before that date, you will not be eligible to receive a bonus award (including any special awards) or any equity award for fiscal year 2004.

If you have any additional questions regarding your compensation or personal data, please contact your divisional HR representative. If you have any questions regarding your equity award, please contact the Compensation Department at (212) 526-8346.

Sweely, G

13-Dec-04

Lehman Brothers
2003 Total Compensation Statement

CONFIDENTIAL

Employee : Shapiro, Ross B.
Division : Fixed Income Division
Hire Date : August 7, 2000

Stock Program : REG
Employee Id : 10202879

COMPENSATION SUMMARY

<u>Compensation Type</u>	<u>Current - 2003</u>
Paid Salary	\$90,000
Bonus	\$310,000
Total Compensation	\$400,000

EQUITY SUMMARY in USD

	<u>Equity Component</u>	<u>Market Price</u>	<u>Discount Price</u>	<u>Shares</u>
RSUs	\$33,000.01	\$71.39	\$53.54	616.36

Your equity award was calculated based on a Total Compensation of \$400,000.

RSUs are subject to restrictions until November 30, 2008. They cannot be sold, traded or pledged for that five year period.

All terms and conditions of the awards are subject to the controlling plan documents, including but not limited to your 2003 Restricted Equity Award Agreement, the Employee Incentive Plan and the Employee Incentive Plan Prospectus.

BONUS PAYMENT SCHEDULE

Bonus	\$310,000	
Less RSUs	(\$33,000)	
Net Bonus (Before Taxes)	\$277,000	Bonus will be paid on or about January 29, 2004

ANNUAL SALARY

Effective Fiscal Year 2004, your annual base salary will be as follows:

Current Annual Salary	\$90,000	
New Annual Salary	\$125,000	Salary Adjustments will be included in the January 30, 2004 paycheck, retroactive to November 23, 2003.
Salary Change	\$35,000	

Note: All bonus awards and equity awards are contingent on your being employed on the scheduled bonus award date (on or about January 29, 2004) and not having given or received notice of employment termination before that date. If you are not employed on January 29, 2004 or you have given or received notice of employment termination before that date, you will not be eligible to receive a bonus award or any equity award for fiscal year 2003.

If you have any additional questions regarding your compensation or personal data, please contact your divisional HR representative. If you have any questions regarding your equity award, please contact the Compensation Department at (212) 526-8346.

15-Dec-03